

CUSTOMER NO. 46850

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: Attorney Docket No. Basavanhally 31-3

In re application of: Nagesh R. Basavanhally and Hong Tang

Serial No.: 10/602,476

Group Art Unit: 2883

Filed: 06/24/2003

Examiner: Chiem, Dinh D.

Matter No.: 990.0487

Phone No.: 571-272-3102

For: Fiber-Optic Gauge Having One or More Side-Mounted Sensors

PETITION TO REMOVE FINALITY OF OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is a petition to remove the finality of the office action dated 03/03/2010.

On page 6 of the non-final office action dated 12/04/2008, the Examiner objected to claim 14 as being dependent upon a rejected base claim, but indicated that claim 14 would be allowable if rewritten in independent form.

In Applicants' Response filed in response to the non-final office action of 12/04/2008, the claims were **not** amended.

In the non-final office action dated 06/12/2009, claim 14 was **not** rejected on any grounds.

In Applicants' Amendment filed in response to the non-final office action of 06/12/2009, claim 14 was rewritten in independent form and presented as new claim 29.

In the final office action dated 03/03/2010, the Examiner rejected claim 29 under 35 U.S.C. § 103(a) as being unpatentable over Lubbers in view of Crothall. Therefore, the Examiner introduced a new ground of rejection for claim 29, which was previously presented as claim 14 and indicated as allowable.

Since MPEP § 706.07(a) explicitly prohibits making the rejection final "where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c)," it is submitted that the finality of the office action dated 03/03/2010 is improper and should be withdrawn.

If the Commissioner determines that a fee is necessary for this petition, then authorization is hereby given to charge (or credit) **Deposit Account No. 50-0782** as required.

Respectfully submitted,

Date: 05/05/2010
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